

JPA / ECS File No.: 05-108
AG Contract No.: KR06-0300TRN
Project No.:
Project: Traffic Medians
Section: Stockton Hill Road at Beverly
Avenue
TRACS No.: H6943 01C
Budget Source Item No.: 73306
District Minor

INTERGOVERNMENTAL AGREEMENT

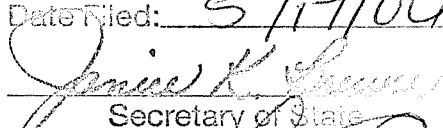

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF KINGMAN

THIS AGREEMENT is entered into this date May 17, 2006, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF KINGMAN, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. The parties hereto agree to and acknowledge the following conditions: **a)** The estimated monetary amounts referenced in this Agreement are subject to change and can change substantially before completion of the Project; **b)** The parties shall perform their responsibilities consistent with this Agreement; and **c)** Any change or modification to the Project will only occur with the mutual written consent of the parties.
4. The State and the City desire to participate in the design, construction and maintenance of raised concrete traffic medians ("bananas") at the intersection of Beverly Avenue and Stockton Hill. The medians will restrict eastbound or westbound traffic on Beverly Avenue to right turns only at Stockton Hill, hereinafter referred to as the "Project". The State will fund the Project, using District Minor Funds, at an estimated amount, not to exceed \$44,898.40, and the City will administer the Project, including the striping and, installing signs.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 28240
Filed with the Secretary of State
Date Filed: 5/17/04

Secretary of State
By: 

II. SCOPE OF WORK

1. The State shall:

a. Review the design documents required for construction of the Project, and provide comments to the City, as appropriate.

b. Upon completion of the Project, inspect the work to insure that the Project has been satisfactorily completed.

c. Upon execution of this Agreement and within thirty-days (30) upon receipt and approval of an invoice from the City, remit to the City, from District Minor Funds, the actual costs for the Project, not to exceed \$44,898.40.

d. Provide signage to the City to direct motorists to Interstate 40. The City will install the signs along Beverly Avenue, and be responsible for the maintenance of the signs.

e. Upon completion of the Project provide proper and perpetual maintenance for the Project.

2. The City shall:

a. Designate the State as authorized agent for the City.

b. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the State for comments and final approval.

c. Advertise for bids and award one or more construction contract(s) for the Project. Administer contracts for the Project and make all payments to the contractor(s).

d. In the event unforeseen conditions or circumstances increase the cost of said work necessitated by change in the Project's Scope of Work, such additional costs shall require prior approval of the State. All costs attributable to any engineering change orders requested by the City shall be the sole responsibility of the City for payment.

e. Upon completion of the Project perform the final inspection and notify the State in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

f. Upon execution of this Agreement, provide the State with an itemized list for the actual costs incurred, along with an invoice for reimbursement to the City in an amount not to exceed \$44,898.40.

g. Upon completion of the Project not be responsible for the maintenance for the Project.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance, provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-days (30) written notice to either party.

2. Each party (as "Indemnitor") agrees to indemnify, defend, save and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses including reasonable attorneys' fee, hereinafter collectively referred to as ("claims"), arising out of bodily injury of any person, including death or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, pertaining to this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

City of Kingman
Attn: City Manager
310 N. 4th Street
Kingman, Arizona 86401
(928) 753-8100
(928) 753-6867 Fax

8. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and City at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised as a result of termination under this paragraph.

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF KINGMAN

By *Monica Gates*
MONICA GATES
Mayor

STATE OF ARIZONA

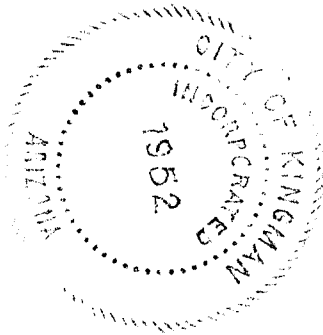
Department of Transportation

By *Douglas A. Forstie*
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By *Angela Gray*
ANGELA GRAY
Acting City Clerk

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ATTORNEY APPROVAL FORM FOR THE CITY OF KINGMAN

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 10th day of April, 2006.



City Attorney

CITY OF KINGMAN

WORK SESSION MEETING OF THE COMMON COUNCIL

5:00 P.M.

Minutes

Monday, April 17, 2006

Members:	Officers:	Visitors Signing In:
M. Gates, Mayor	P. Beecher, City Manager	See attached list
T. Spear, Vice Mayor	C. Cooper, Asst. City Attorney	
J. Baker	R. Taylor, City Attorney	
T. Carter	R. Owen, Special Projects	
P. Moon	A. Gray, Acting City Clerk	
D. French	C. Loyd, Finance Director	
R. Lyons	J. Walker, HR Director	
	J. Weir, Economic Dev. Director	
	G. Jeppson, Dev. Services Director	
	J. Kramer, Public Works Director	
	J. Schoppman, Prosecutor	
	B. Shilling, P & Z	
	P. Johnson, City Engineer	

1. **Call to Order – Mayor Gates**

Mayor Gates called the meeting to order at 5:00PM.

2. **Roll Call – City Clerk**

Roll call was taken and all Councilmembers were present.

3. **Agenda Items for Action:**

A. **Market Survey Results for the City Manager's Salary**

Mayor Gates stated that this item was tabled at the last meeting to give the City Manager, Paul Beecher, an opportunity to be present. The recommendation is to take the City Manager to the 50th percentile in the market.

Councilmember Carter asked if the salary presented was the total salary or total salary with benefits. Human Resources Director Jackie Walker stated this would be the annual salary.

With no further discussion, Councilmember French made a MOTION to APPROVE putting the City Manager's salary to the 50th percentile. Councilmember Moon SECONDED and it was UNANIMOUSLY APPROVED.

B. **Appoint three Councilmembers to assist the Human Resources Director with application review and interviews for the Personnel Board vacancies**

Human Resources Director Jackie Walker stated that the adoption of Ordinance No. 1533 refined the recruitment process. The Personnel Board has 2 (two) vacancies and Ms. Walker asked for three Councilmembers to volunteer to be part of the application review and interview process. Councilmembers Moon and Lyons and Mayor Gates volunteered to be part of this process.

Consent Agenda Items for Action:

- C. Authorizing the Mayor to sign an Intergovernmental Agreement with Mohave County for Gordon Drive mill and paving
- D. Authorizing the Mayor to sign an Intergovernmental Agreement with the Arizona Department of Transportation for cost reimbursement for the construction of raised concrete traffic medians at the intersection of Beverly Avenue and Stockton Hill Road and for the installation of signage directing motorists to I-40 along Beverly Avenue
- E. **AWARD OF BIDS/PROPOSALS/CONTRACTS**
1) **AWARD OF BID-ENG**-To Surface Contracting, Inc in the amount of \$377,230.00 for Southern Avenue Water/Sewer Line, Golden Gate/Gates Avenues Alley Sewer Line and miscellaneous manhole and water valve adjustments [Contract No. 04/05/-06]
2) **AWARD OF BID-ENG**-To Surface Contracting, Inc in the amount of \$349,134.20 for the Louise Avenue/Railroad Street Drainage Detention Facility Improvements [Contract No. 04/05-09]

With no discussion, Councilmember Carter made a MOTION to APPROVE the Consent Agenda. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

4. Agenda Items for Discussion:

- A. Unfinished business:
Update and discussion of the City Attorney recruitment process

Mayor Gates stated that she had received an email from Human Resources Director Jackie Walker in regards to the subcommittee. Ms. Walker stated that 6 applications were received and after being reviewed by the panel, was narrowed to 4 candidates. Mayor Gates stated that Maureen George would be a good candidate for the interview panel; however, she did not see her name as one of them. Ms. Walker stated that she had not made contact with Ms. George and the panel recommended local attorneys for the interview process.

Mayor Gates stated that Council will have the final interview and Ms. Walker stated she would provide Council with a calendar so they may set a date.

- B. Presentation by Dorothy Carr regarding the Lower Colorado River Resource Conservation and Development

The presentation was given by Danny Markus. Highlights of Mr. Markus' presentation were as follows:

- The Lower Colorado River Resource Conservation & Development (LCRRC&D) is a non-profit organization operating in Mohave, La Paz and Yuma Counties.
- Its members form what's called an RC&D Council, Resource Conservation & Development Council, and include representatives from five tribal nations, county and municipal governments, conservation and irrigation districts and other non-profit organizations.
- Structured like most non-profits with an elected executive board guiding policy and an assortment of communities involved in carrying out its work, the LCRRC&D has been quietly serving the three-county region for over thirty years.
- The LCRRC&D's important mission is to serve as a catalyst in our communities for resource conservation, economic development and an improved quality of life.
- Over the coming months and years, they will be introducing RC&D Councilmembers, such as Bill Shilling from the City of Kingman, and highlighting activities and projects that the RC&D is involved in.
- The LCRRC&D has "sponsors" who pay \$100 in dues each year and a select person, a "representative" is called on to participate in and support RC&D projects and activities.
- When one of the LCRRC&D's sponsors has an idea for a project and they feel it would benefit by partnering with LCRRC&D, a brief Project Application is brought before the RC&D Board or Council and the project is either adopted or it's not.
- Potential projects must relate to at least one of four "Goals and Objectives" categories describe in their long range plan or Area Plan.
- These categories include: 1) Community and Economic Development; 2) Water Management; 3) Land Management; and 4) Education

- The LCRR&D has been mentioned in the City of Kingman newsletter.

C. Service Area/Annexation Program Presentation

Rob Owen, Special Projects, presented Council with a presentation regarding the Service Area/Annexation Program.

The entire presentation given to Council has been included as part of these minutes.

D. Discussion regarding a proposed alternate payback method for Kingman Crossing, LLC in which the City would collect funds from the developers of Phase 2 thru 12 of Kingman Crossing for Kingman Crossing, LLC at the time the final plat is approved

City Engineer Pete Johnson stated that Kingman Crossing is a single family residential subdivision located on the south side of Airway Avenue between Castle Rock Road and Prospector Street. It is to include approximately 1,150 lots and the Preliminary Plat show 13 development phases.

Water service to Phase 1, 116 lots, was approved September 7, 2004 by Resolution No. 4023. Water service to Phases 2-12, 913 lots, was approved April 18, 2005 by Resolution No. 4110 and was subject to and included as Exhibit "A", a Participation Agreement committing the developer to constructing approximately 1.5 miles of water transmission main and paying 1/3 the cost of a new water storage reservoir. Both the reservoir and transmission main are needed to allow these additional connections and both are currently under construction.

Kingman Crossing, LLC is proposing a payback agreement under which their costs for the transmission main and storage reservoir would be collected from the developers of Kingman Crossing and returned to Kingman Crossing, LLC. Phase 1 is being developed by Celebrate Homes. It is understood subsequent phases will likely be developed by parties other than Kingman Crossing, LLC.

Paybacks, which are addressed in Article IX of the Utility Regulations, normally apply to properties abutting a main extension and are collected when connections are made to that extension. Paybacks are intended to reimburse a pro rata portion of the costs to the "Installing Party" from other properties which benefit from the improvement.

The proposal is that paybacks be collected from the actual developers of Kingman Crossing under the provision in Sec. 9.3, which states, "The Common Council may approve "alternate methods" for calculating paybacks based on criteria other than or in addition to the frontage of the extension. Such factors as hydraulic capacity, service area, etc may be considered as appropriate. If a developer proposes an alternate payback method, he must submit a complete description of the system with engineering and cost data for review by the Municipal Utilities Commission."

In a letter dated March 14, 2006, Mr. Nugent requested the Municipal Utilities Commission review this proposal for an alternate payback system for Kingman Crossing.

If the proposed Alternate Payback is pursued, it is envisioned it would be covered by a formal agreement between the City and Kingman Crossing, LLC. It will have to address some specific issues including actual costs (at this time it appears the costs could be about \$625,000), and allocation of those costs to the development. Mr. Nugent suggested they be applied equally to each of the 12 phases of Kingman Crossing; which will benefit from the water improvements.

Mr. Johnson also stated that there would be some minor costs to the City which would likely be recovered from investment fees.

E. Rattlesnake Wash/ADOT 5 Year Plan

City Manager Paul Beecher stated that there will be an Arizona Department of Transportation (ADOT) meeting in Flagstaff on May 5, 2006 and any Councilmembers wishing to attend should contact Kristy Turley for hotel reservations. Mr. Beecher stated that although this project did not make ADOT's Five Year Plan, the City needs to continue to show support for this project.

With no further discussion, Councilmember Carter made a MOTION to RECESS into Executive Session. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

RECESS: 6:07PM

- F. EXECUTIVE SESSION (per A.R.S. ' 38-431.03 A.4)
Discussion and consultation with the City Attorney regarding a potential lawsuit

RECONVENE: 6:24PM

5. Adjournment

Councilmember Carter made a MOTION to ADJOURN. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

ADJOURN: 6:25PM

ATTEST:

APPROVED:

Angela Gray
Acting City Clerk

Monica Gates, Mayor

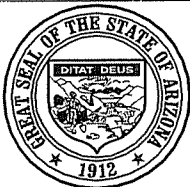
STATE OF ARIZONA)
COUNTY OF MOHAVE)ss:
CITY OF KINGMAN)

CERTIFICATE OF COUNCIL MINUTES

I, Angela Gray, Recording Secretary of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Work Session Meeting of the Common Council of the City of Kingman held on Monday, April 17, 2006.

Dated this 19th day of April, 2006

Angela Gray, Acting City Clerk

<p>TERRY GODDARD Attorney General</p>	<div data-bbox="745 54 935 239"></div> <p>OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR06-0300TRN (**JPA 05-108**), an Agreement between public agencies, i.e., The State of Arizona and City of Kingman, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: May 8, 2006

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:959580
Attachment